IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8306 OF 2005

Maya Ibrahim Khan @ Jalki ...Applicant.

V/s

The State of Maharashtra
(D.C.B. C.I.D. Unit-VII) ...Respondents.

Mr. Ramesh Ravindra Daoe for the applicant.

Ms. S.D. Shinde. APP for the State.

CORAM: V.M. KANADE, J.

DATE: 17th January, 2006

P.C.:

1. The applicant was arrested in connection with an offence which was registered on 25th and 26th December, 2006 for the offence punishable under section 302, 304, 326, 328, 272, 273 read with section 34 of the Indian Penal Code and under the various provisions of the Bombay Prohibition Act. The applicant was arrested on 3/3/2004.

2. The prosecution case is that 85 people died and 194 people suffered severe injuries after consuming alcohol which was distributed by the present applicant. It is alleged that, initially, number of people died after consuming the alcohol on 25/12/2004 and 26/12/2004 and the total number of casualties as a

result of consumption of illicit liquor was more than 100 and more than 200 people were grievously injured.

3. The learned Counsel appearing on behalf of the applicant strenuously urged that there was no intention on the part of the applicant and, therefore, the offence under section 302 of the Indian Penal Code was not attracted. He further submitted that the applicant had no knowledge about the contents of the said liquor and, therefore, in any case, the provisions of section 302 were not attracted. He submitted that, at the highest, the offence under section 304(II) would be attracted in the facts of the present case. It is further submitted that no person had given the name of the applicant and though the incident had taken place on 25th/26th December, 2004, the applicant was arrested for the first time on 3/3/2005. He, therefore, submitted that for two months no statement against the present applicant was recorded. He submitted that, therefore, the applicant was falsely implicated in the present case.

4. The learned APP, on the other hand, submitted that the applicant had knowledge about the first incident which had taken place on 25th December, 2004 where the people who had consumed the liquor which was

distributed by the applicant had died and in spite of that the applicant continued to supply the same liquor to other people. The learned APP, therefore, submitted that the applicant was verywell aware and had knowledge about the contents of the liquor which was consumed. She invited my attention to the statements of various injured persons and their relatives and also relatives of those people who have died and it has been stated by them that all these persons had consumed liquor which was given by the applicant. The learned APP submitted that the applicant had past antecedents and was involved in various offences under the Bombay Prohibition Act and was a known bootlegger in the area.

5. I have heard the learned Counsel appearing on behalf of the applicant and the learned APP for the State at length. It is not possible to accept the submissions made by the learned Counsel for the applicant. Considering the material on record and particularly the statements of various injured persons and the relatives of those who have died, it is clear that the applicant had supplied the liquor which was consumed by the unfortunate people who have died and were hospitalised after consuming the said liquor and, therefore, it is not possible to accept the submission

that there was no intention on the part of the applicant. From the material which is placed before me, it is clear that the applicant was aware that the people had died after consuming the liquor and yet, she continued to supply the same liquor to the customers who came on the next day. The applicant also appears to be having past antecedents. This is, therefore, not a fit case for grant of bail. The application for bail is accordingly rejected.

V.M. KANADE, J.